UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE "A MILLION LITTLE PIECES" LITIGATION

No. 06-md-1771

Hon. Richard J. Holwell

PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF THEIR FINAL APPROVAL MOTION REGARDING THE DESIGNATION OF CHARITIES TO RECEIVE CY PRES FUNDS CONTRIBUTION

Background

1. On May 15, 2007, this Court entered an order granting preliminary approval of the settlement in the above-captioned matter reached between Plaintiffs, on their own behalf and on behalf of the Settlement Class, and Defendants, as memorialized in the Settlement Agreement between the Parties.

2. On September 24, 2007, Plaintiffs, through Class Counsel, filed a motion and supporting memorandum seeking final approval of the Settlement.

3. Plaintiffs, through Class Counsel, hereby submit this supplemental pleading to address one remaining issue relating to final approval; namely, the designation of the charities that will receive the cy pres funds called for by the Settlement Agreement.

Cy Pres Designations

4. Pursuant to Section 8 of the Settlement Agreement, the Parties agreed to "create a fund that will be contributed to designated *cy pres* organization(s) to be mutually agreed upon by the Parties and approved by the Court." *See* Par. 8, pp. 7. Although the final amount of the cy pres contributions has yet to be determined, the fund will exceed $180,000.

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5. In the event this Court enters final approval of the proposed settlement, Plaintiffs ask this Court to approve the three charities described below to receive cy pres contributions. In accordance with the Settlement Agreement, these three charities have been mutually agreed upon by the Parties.

Proposed Charities

6. Plaintiffs propose that the cy pres fund provided for in the Settlement Agreement be divided equally between the following three charities:

(a) First Book. (Excerpt from www.firstbook.org)

> First Book is a nonprofit organization with a single mission: to give children from low-income families the opportunity to read and own their first new books. We provide an ongoing supply of new books to children participating in community-based mentoring, tutoring, and family literacy programs.
>
> First Book was founded in 1992. The First Book model was developed to leverage the work of local heroes who reach children through existing literacy programs in a variety of settings, such as Head Start centers, libraries, soup kitchens, churches, housing projects, and afterschool initiatives. Working through this vast network of organizations, First Book plays a critical role in transforming the quality of preschool and after-school programs nationwide.
>
> First Book's model is national in scope and local in impact. In our first year, First Book distributed approximately 12,000 books in three communities. Since that time, First Book has distributed more than 50 million books to children in over 1300 communities around the country.
>
> In our first decade, First Book converted a promising distribution concept into a premier national literacy organization. During this initial phase of development, First Book experienced a nearly vertical growth curve and established a broad range of strategic corporate, government, and nonprofit partnerships. The success of this phase has enabled the organization to build a national reputation and establish the foundation for long-term growth and development.

First Book now is poised to enter a new stage of development that includes new national initiatives and international expansion. Through its committed staff, heroic local Advisory Board volunteers, and a strong national Board of Directors and Advisory Council, First Book has accomplished its initial goals and has verified the impact of our work through an extensive evaluation performed by Louis Harris.

Through our success, we have established credibility in the literacy, governmental, and corporate arenas and built a strategic set of alliances that have positioned First Book to reach an unlimited number of children and communities in the coming years.

(b) Hazelden (Excerpts from www.hazelden.org)

Hazelden, a national nonprofit organization founded in 1949, helps people reclaim their lives from the disease of addiction. Built on decades of knowledge and experience, Hazelden's comprehensive approach to addiction addresses the full range of patient, family, and professional needs, including treatment and continuing care for youth and adults, research, higher learning, public education and advocacy, and publishing.

* * *

Since its 1949 founding in a rural Minnesota lakeside farmhouse, Hazelden has grown into one of the world's largest, most respected, and best-known private alcohol and drug rehabilitation centers in the world. Thousands of people from all 50 states and 42 foreign countries have turned to Hazelden to find expertise, quality care, and leading authorities on addiction and recovery issues. Our mission today remains the same as our early founders had dreamed - to help alcoholics and addicts who need help.

(c) American Red Cross, Assistance to Military Members and Families
(Excerpt from www.redcross.org)

Today's American Red Cross is keeping pace with the changing military. Using the latest in computer and telecommunications technology, the Red Cross sends communications on behalf of family members who are facing emergencies or other important events to members of the U.S. Armed Forces serving all over the world. These communications are delivered around-the-clock, 7 days a week, 365 days a year.

While providing services to 1.4 million active duty personnel and their families, the Red Cross also reaches out to more than 1.2 million members of the National Guard and the Reserves and their families who reside in nearly every community in America.

Red Cross workers in hundreds of chapters and on military installations brief departing service members and their families regarding available support services and explain how the Red Cross may assist them during the deployment.

Both active duty and community-based military can count on the Red Cross to provide emergency communications that link them with their families back home, access to financial assistance, counseling and assistance to veterans. Red Cross Service to the Armed Forces personnel work in nearly 760 chapters in the United States, on 58 military installations around the world and with our troops in Kuwait, Afghanistan and Iraq.

WHEREFORE, in the event this Court enters final approval of the proposed settlement, Plaintiffs respectfully request that the Court approve the distribution of the cy pres funds in accordance with the Settlement Agreement to the afore-mentioned charities.

Dated: November 1, 2007

Respectfully submitted,

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PROOF OF MAILING

I, Evan J. Smith, Esquire, am over the age of eighteen and am not a party to this action and I hereby certify that I filed Plaintiffs' Supplemental Briefing on Cy Pres Award pursuant to the SDNY ECF rules of e-filing on this 1st day of November, 2007.

Dated: November 1, 2007

s/ Evan J. Smith, Esquire (ES3254)
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